

**REMARKS**

The Office Action mailed October 30, 2008, has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

**Canceled Claims**

Claim 2 has been canceled without prejudice or disclaimer of the subject matter contained therein.

**Rejection(s) Under 35 U.S.C. §102**

Claims 1 and 2 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Robitaille et al. (U.S. pat. pub. 2002/0085950). Applicants respectfully traverse.

Claim 1 has been amended to recite a method for sterilization of a room suitable for human habitation. This is not disclosed in Robitaille et al., which discloses ozone sterilization of articles, accomplished by disposing the articles in sterilization chamber 10. Such sterilization does not address issues involved in sterilization of rooms suitable for human habitation, such as safely breathable concentrations of ozone, or concentrations of other material generated by the interaction of ozone with objects in the room (carpets, etc.).

It will be appreciated that, according to the M.P.E.P., a claim is anticipated under 35 U.S.C. §102 only if each and every claim element is found, either expressly or inherently described, in a single prior art reference.<sup>1</sup> The aforementioned reasons clearly indicate the contrary, and withdrawal of the 35 U.S.C. §102 rejection based on Robitaille et al. is respectfully urged.

Claim 2 has been canceled and the rejection thereof is moot.

**Rejection(s) Under 35 U.S.C. §103(a)**

Claims 3 and 4 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Braun, Jr. (U.S. pat. pub. 2003/0127506). Applicants respectfully traverse.

---

<sup>1</sup> Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Claim 3, from which claim 4 depends, has been amended to recite “inactivating a quantity of Norwalk virus in a room suitable for human habitation.” This is not disclosed in Braun, Jr., which instead shows mailbox decontamination which involves different issues from rooms suitable for human habitation. As explained above, these involve safely breathable concentrations of ozone, or concentrations of other material generated by the interaction of ozone with objects in the room (carpets, etc.).

### **Conclusion**

In view of the preceding discussion, Applicants respectfully urge that the claims of the present application define patentable subject matter and should be passed to allowance.

If the Examiner believes that a telephone call would help advance prosecution of the present invention, the Examiner is kindly invited to call the undersigned attorney at the number below.

Please charge any additional required fees, including those necessary to obtain extensions of time to render timely the filing of the instant Amendment and/or Reply to Office Action, or credit any overpayment not otherwise credited, to our deposit account no. 50-3557.

Respectfully submitted,  
NIXON PEABODY LLP

Dated: January 30, 2009

/Khaled Shami/  
Khaled Shami  
Reg. No. 38,745

NIXON PEABODY LLP  
200 PAGE MILL ROAD  
2<sup>ND</sup> FLOOR  
PALO ALTO, CA  
94306-2022  
TEL. (650) 320-7700  
FAX. (650) 320-7701